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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,910	06/26/2003	Sverker Norrby	10806-122A	5750

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EXAMINER

MANUEL, GEORGE C

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

Office Action Summary	Application No.	Applicant(s)	
	10/606,910	NORRBY ET AL.	
	Examiner	Art Unit	
	George Manuel	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 116-130 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 116-130 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 116-130 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 116 is confusing because implanting an intraocular lens requires the natural lens to be first removed. Likewise, measuring the aberrations of the eye not comprising the natural lens requires the natural lens to be first removed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 116-130 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glick et al (US 2006/0238702).

Glick et al disclose, the primary optic 602 may be deformed by using a rigid optic 611 that is configured to deform the primary optic 602 in a predetermined manner, so as to produce accommodation or some other desired effect (e.g., changing the aberrations

of the primary optic 602 and/or the wavefront that is directed to the retina of the eye 607). The optics 602, 611 are configured so that the deformable surface 610 is deformed when the optics 602, 611 are pressed together, as illustrated by comparing FIG. 10 with FIG. 11. Thus, the movement assembly 620 is structured to cooperate with the eye to effect accommodating axial movement of the primary optic 602 and accommodating deformation of the primary optic 602 in response to an ocular force produced by the eye 607.

One of ordinary skill in the art would have found it obvious to measure the aberration of the eye after the natural lens of the eye has been removed because the natural lens is intended to be removed, and with the removal, the aberrations imparted by the natural lens will also be removed making the compensation of the intraocular implant a function of the aphakic eye.

Glick et al teach at operational block 702, the surgeon makes a first estimate of the basic prescription of the patient by, for example, measuring physical characteristics of the eye such as the axial length and the anterior chamber depth. Other dimensional parameters may also be measured including, but are not limited to, the corneal radius, the corneal power, and crystalline lens thickness. The first estimate may also include other parameters of the eye such as the refractive indices and/or estimated refractive indices of the various portions of the eye. It is well known in the art to use wavefront analysis to perform these measurements.


Glick et al teach that while generally, the first estimate is determined while the

natural lens or a previously implanted intraocular lens is still in the eye, the first estimate may be made after removal of the natural lens and/or explanting a previously implanted intraocular lens. Prior to implantation of an intraocular lens, the basic prescription for an aphakic eye and/or amount of accommodative capability of the eye may not be precisely known, since the precise contribution of the natural lens alone may not be precisely determinate. Therefore, one of ordinary skill in the art would have found it obvious to adjust in discrete increments the spherical aberration of the intraocular lens.

Glick et al teach, the primary optic 602 may be selected from a plurality or set of primary optics and the supplemental optic 604 may be selected from a set or plurality of supplemental optics. One of ordinary skill in the art would have found it obvious to make such a selection from a predetermined kit of lenses since there may be more than one primary optic for providing an approximate correction of the eyes in a given population. The optics in the set of primary optics and in the set of supplemental optics may be configured to provide visual correction for populations having variations in prescriptions.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.


George Manuel
Primary Examiner
Art Unit: 3762